

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of

PROMOTION OF SPECTRUM EFFICIENT
 TECHNOLOGIES ON CERTAIN
 FREQUENCIES

WT Docket 99-87

RECEIVED

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To: The Commission
 VIA OFFICE OF THE SECRETARY

Federal Communications Commission
 Office of Secretary

**COMMENTS OF KENWOOD U.S.A. CORPORATION,
COMMUNICATIONS DIVISION**

Kenwood U.S.A. Corporation, Communications Division, (Kenwood), by counsel and pursuant to Section 1.415 of the Commission's Rules (47 C.F.R. §1.415), hereby respectfully submits its comments in response to the *Third Further Notice of Proposed Rule Making* (the Notice), FCC 04-292, released on December 23, 2004 as part of the *Third Memorandum Opinion and Order, Third Further Notice of Proposed Rule Making and Order*. The Notice was published in the Federal Register on June 15, 2005 (70 Fed. Reg. 34726 *et seq.*). Therefore, these comments are timely filed. For its comments on the questions raised in the Notice, Kenwood states as follows:

1. The issues raised in this Notice, and discussed in the *Order* portion of the above-referenced combined document, are in the main the product of the "*Petition to Defer Enforcement of Section 90.203(j)(5) of the Commission's Rules*" filed jointly by E.F. Johnson Company, Kenwood, and Motorola, Inc. on July 14, 2004 (the Petition). The three joint petitioners sought a stay of the requirement that, by January 1, 2005, all new applicants for equipment authorizations for radios which operate in the 150-174

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MHz (VHF) and the 421-512 MHz (UHF) bands (the “Refarming” bands) be capable of a 6.25 kHz emission mode. The Petition received support from the land mobile industry and from other manufacturers.¹ In the Notice, the Commission decided to withhold any consideration of mandatory licensee migration to 6.25 kHz, and to address the issues in the Petition first, i.e. whether it would be premature to require incorporation of 6.25 kHz technology in land mobile radio equipment currently as a condition of equipment authorization, or whether such a requirement is necessary at all.

2. Kenwood applauds the Commission’s sensitivity and responsiveness to the needs and interests of the land mobile industry in staying the 6.25 kHz equipment authorization requirement. The stay granted by the Commission on December 23, 2005 with respect to 6.25 kHz equipment capability made good sense, and the Commission’s action, and its willingness to reexamine the necessity for any deadline for incorporating 6.25 kHz capability in land mobile radio equipment is proper, in view of the reasonable progress toward narrowbanding commenced in 1995, ten years ago. The January 1, 2005 deadline was indeed premature, and the Commission recognized that. There was a need to continue work, already commenced, on 6.25 kHz standards, and a need to provide a standard digital platform for 6.25 kHz technology in order to insure interoperability and industry acceptance. At the same time, it is Kenwood’s view that the Commission has created a timetable for 12.5 kHz conversion that is realistic and achievable. The 2013 date for licensee conversion to 12.5 kHz technology is timely, and the 2011 date for foreclosing the manufacture and importation of 25 kHz bandwidth equipment is not unreasonable in light of the 2013 licensee conversion deadline. Kenwood supports wholeheartedly the continuation of the concept of narrowband conversion, and believes

¹ See, e.g. similar filings in support of the Petition, filed by Daniels and Ritron.

that the Commission has exercised the proper stewardship of the concept by affirming in the *Third Memorandum Opinion and Order* the 2011 deadlines for manufacturing and importation of 25 kHz equipment, and the 2013 deadline for 12.5 kHz licensee conversion. These represent a balance between the need to encourage completion of the first phase of narrowband conversion, and the recognition of the very practical limitations on that conversion, given public safety and other land mobile licensees' budget restrictions and the need to permit amortization of the cost of current generation 25 kHz and 12.5 kHz equipment.

3. That having been said, it is Kenwood's view that the "command and control" philosophy of regulatory oversight in narrowband conversion (and as a general matter) should stand down where there is evidence that the industry will succeed on its own. In Kenwood's view, the only justification for mandatory timetables in narrowband conversion should be a conclusion that the marketplace is failing to progress at a reasonable pace toward the Commission's goals. As is discussed below, notwithstanding the conclusions of the *Second Report and Order* in this proceeding relative to the conversion from 25 kHz to 12.5 kHz,² the Commission can safely conclude: (1) that the industry is progressing in a responsive manner toward 6.25 kHz technology, and (2) that it need not impose regulations mandating particular timetables for the migration from 12.5 kHz to 6.25 kHz.

4. In 1995, in the Refarming proceeding, the Commission adopted a flexible plan premised on reliance on marketplace forces to encourage narrowband conversion. That

² See, the Second Report and Order and Second Further Notice of Proposed Rulemaking, *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended, Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies*, FCC 03-34, 68 Fed. Reg. 18054, 18 FCC Rcd. 3034 (2003).

plan, the Commission noted, was premised on avoiding the “command and control” approach to regulation of channel bandwidths and narrowband conversion. The Commission stated, at paragraph 37 of the 1995 *Report and Order* in the Refarming proceeding³ that:

The discussion regarding channelization has been dominated by concerns regarding time frames for introducing narrowband technology. The comments generally discuss extended schedules, e.g. 26 years in the User Coalition plan. Most of these time frames conservatively favor full amortization of equipment, and assume unnecessarily long lead times for development and marketing of new narrowband technologies. We have decided to adopt a plan that provides a flexible framework within a much shorter period of time by which market based incentives can be introduced into these private wireless bands. In contrast to many comments and the User Coalition plan, we have decided not to implement a comprehensive set of dates mandating strict manufacturing and licensing requirements. Rather, we conclude that the best approach is to specify type acceptance dates to guide the transition process. Recognizing that there is over \$25 billion in equipment investment in these PLMR bands, we will provide users immediate flexibility in equipment decisions and provide a period for the development of new technologies. This transition plan provides users the option of continuing to use existing equipment, transitioning immediately to more efficient narrowband equipment, or waiting until a full line of affordable narrowband equipment is available and costs become competitive, before changing out their systems. This, this plan allows each licensee the freedom to choose equipment and a transition schedule that best fulfills their needs while balancing technical capabilities and financial considerations...

5. This rationale was reasonable at the time it was adopted, and, Kenwood would argue, is reasonable now. The timetables established in the Refarming Report and Order

³ See, *Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, Report and Order and Further Notice of Proposed Rule Making*, 10 FCC Rcd. 10076 (1995) (“Refarming Report and Order”). Among many other changes, the Refarming rules provided that, in order to effect a transition from a wideband (25 kHz) channel plan for land mobile radio at VHF and UHF, the Commission would approve for marketing and sale only increasingly spectral efficient equipment. After February 14, 1997, the Commission required that, in order to be certificated, Part 90 land mobile radio equipment in the VHF and UHF bands be capable of operating on 12.5 kHz bandwidth channels, and after January 1, 2005, such equipment had to be capable of operating on 6.25 kHz bandwidth channels in order to receive a certification grant.

appeared reasonable at the time, and assumed that the 12.5 kHz conversion would proceed at a pace envisioned in the Report and Order. However, that did not happen. There was delay in the conversion to 12.5 kHz. Now, given the affirmation in the *Third Memorandum Opinion and Order* of the firm deadlines of 2011 for importation and manufacture of 25 kHz equipment, and 2013 for licensee conversion to 12.5 kHz, it makes good sense to evaluate the progress to 6.25 kHz at that time, rather than now. Certainly, the 12.5 kHz conversion and the 6.25 kHz conversion cannot reasonably be mandated to occur concurrently, and therefore a review of the progress toward 6.25 kHz conversion should be made at the time that licensees must convert to 12.5 kHz.

6. What evidence, however, is there that the Commission can comfortably rely on the marketplace to continue the pace of narrowband conversion from 12.5 kHz to 6.25 kHz without strict deadlines for equipment authorization? The answer is that new, digital 6.25 kHz equipment and standards are being developed now, almost eight years prior to the completion of the 12.5 kHz conversion. Kenwood, for example, has developed and has just recently presented to the Commission a new, 6.25 kHz bandwidth digital communications technology. This system incorporates a common air interface which insures interoperability with analog radios and newer digital radios at the same time, thus insuring both forward and backward compatibility. The platform permits VoIP applications, multi-site systems using Internet Protocols, and other advanced system architecture. It is anticipated that equipment using this technology will be available for deployment well before the end of the 12.5 kHz conversion in 2013. It is Kenwood's belief that this technology is well-suited to ease the transition to digital 6.25 kHz technology.

7. The acceleration very recently of product development, and the conversion to digital technologies, go hand-in-hand with 6.25 kHz conversion. These trends should offer the Commission a sufficient basis for refraining from regulation with respect to 6.25 kHz. Kenwood and the land mobile industry generally are committed to digital 6.25 kHz conversion. A marketplace failure in the progress of narrowband conversion in the future is extremely unlikely. Having provided a reasonable timetable for the completion of the 12.5 kHz conversion, it is entirely reasonable for the Commission to permit and rely on the marketplace to address 6.25 kHz conversion, as Kenwood is currently doing. Kenwood suggests that the Commission's proper role should be limited to evaluation of the progress of 6.25 kHz conversion at the time the first phase of narrowband migration is complete, in 2013. Kenwood is confident that the Commission will find at that time that the progress toward 6.25 kHz conversion is far enough along that additional regulation is unnecessary, and that the narrowband goals established in 1995 are being realized.

8. In summary, Kenwood continues to support the Commission's narrowband conversion plans and its 12.5 kHz timetables. Because of the demonstrated responsiveness of the industry to continue the process via new digital 6.25 kHz equipment, platforms, and a common-air interface, Kenwood suggests that the Commission can comfortably rely on the industry to continue timely progress toward completion of narrowband conversion at VHF and UHF without regulatory intervention. Kenwood suggests that the Commission evaluate that progress in 2013, when the conversion to 12.5 kHz is completed, and is confident that the Commission will find that the marketplace has acted responsively and timely at that time, and that comfortable progress has been made.

9. Though the Commission need not impose any deadline for incorporating 6.25 kHz capability in equipment for the reasons stated above, it is suggested that the Part 90 regulations be reviewed at the present time, in order to insure that the rules applicable to the VHF and UHF land mobile frequency allotments are conducive to 6.25 kHz narrowband conversion. No licensee should be dissuaded from voluntary conversion to 6.25 kHz at a convenient time. For example, the tables of channel allotments at Sections 90.20 and 90.35 might be revised to include 6.25 kHz channels only, but to permit (until 2013) stacking to achieve up to 25 kHz channel bandwidths for existing systems, and thereafter, to permit stacking to achieve 12.5 kHz channel bandwidths. Alternatively, the Commission should consider permitting, for PS and IG licensees, specification of lower and upper frequency limits or ranges, rather than center frequencies, as is permitted now for Part 74 and Part 101 licenses.

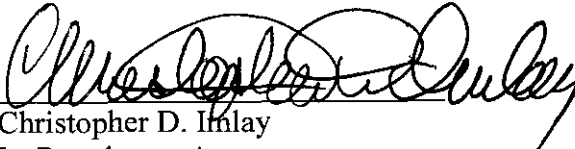
Therefore, the foregoing considered, Kenwood U.S.A. Corporation, Communications Division, respectfully requests that the Commission rescind Section 90.203(j)(5) of the Rules, which are currently subject to the Stay imposed by the *Third*

*Memorandum Opinion and Order, Third Further Notice of Proposed Rule Making and
Order in this proceeding.*

Respectfully submitted,

**KENWOOD U.S.A. CORPORATION
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